

Applicant: Thomas & Ruth Montoya

Agent: Rick Bennett Architects

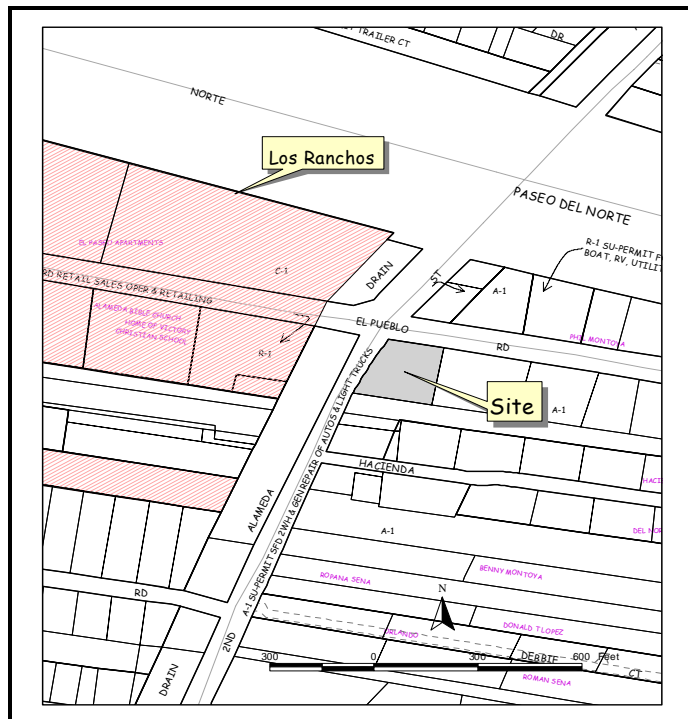
Location: 8424 Second St. NW

Property Size: .82 acres (approximately)

Existing Zone: A-1

Proposed Zoning/SUP: Convenience store, service station, car wash

Recommendation: Denial



Summary: The applicant is requesting a Special Use Permit to construct a convenience store, car wash, and service station on the .82 acre property located on the southeast corner of Second St. and El Pueblo Rd. to the south of Paseo Del Norte. The applicant contends that the property is no longer developable as residential due to the presence of Paseo del Norte and associated traffic on Second St., and El Pueblo Rd., while a convenience store is needed in the area. This request was continued by the CPC in October 2004 for 6 months and was deferred for another 6 months at the applicant's request.

At the October 5, 2005 CPC hearing, no decision was reached (tie vote on motion to approve). The applicant appealed this decision to the Board of County Commissioners and then requested a remand of the case to the CPC mainly to resolve the issue of the tie vote. On November 23, 2005, the BCC granted the request.

Staff Planner: Catherine VerEecke, Program Planner

- Attachments:**
1. Application
 2. Land Use and Zoning Maps
 3. Additional information from applicant (for October 2004)
 4. Petitions in support of request (for October 2004)
 5. Petitions/materials in opposition to request (October 2004 & January 2005)
 6. Revised application packet
 7. Letters from DOT (for October 2004, October 2005)
 8. Additional petitions in support of request (for October 2005)
 9. Letters from the Village of Los Ranchos (for October 2004, October 2005)
 10. Revised Site Plan, dated August 22, 2005 (Commissioners only)

Bernalillo County departments and other agencies reviewed this application from 8-23-04 to 9-13-04 and 8-23-05 to 9-12-05. Their comments are incorporated in this report, and appear beginning on Page 15.

AGENDA ITEM NO.: 6
County Planning Commission
October 5, 2005

CSU-40028 Rick Bennett Architects, agent for Thomas C. & Ruth Montoya, requests approval of a Special Use Permit for a Specific Use for Service Station including Retail Sales (convenience store) and Car Wash on Tract 140H1, MRGCD Map #24, located at 8424 Second Street NW, on the southeast corner of Second Street and El Pueblo Road, zoned A-1, containing approximately .82 acres. (C-15) (DEFERRED FROM THE APRIL 6, 2005 HEARING)

AREA CHARACTERISTICS AND ZONING HISTORY
Surrounding Zoning & Land Uses

	Zoning	Land use
Site	A-1	Single family residential
North	---	Paseo del Norte
South	A-1	Single family residential
East	A-1	Single family residential
West	Village of Los Ranchos	Church & school

BACKGROUND:

The Request

The applicant is requesting a Special Use Permit to establish a convenience store, a car wash, and a gasoline service station on his property. The property is approximately .82 acres, and is located on the east side of Second St., to the immediate south of El Pueblo Rd. and Paseo Del Norte. The property is zoned A-1 and currently has the applicant's residence on it.

In 1989, the applicant requested a zone change from A-1 to C-1 (CZ-89-13) to allow him to establish a business (gas station, car wash) on the property. Staff had recommended denial of the request, but on May 1, 1989, the County Planning Commission deferred this request indefinitely to allow the applicant time to submit a site development plan. In 1992, the file was closed by the County Zoning Administrator after the applicant did not submit the site development plan.

Under the current site plan, the existing residence will be removed. The convenience store and parking (10 spaces) will be located in the rear of the site adjacent to residential properties. The service area will consist of 5 pumps and a canopy. There will also be a car wash located along the south property line with direct access to Second St.

Materials submitted after the application deadline elaborate on the operation of the proposed businesses on the site (Attachment 3). The convenience store will sell beer and wine but not hard liquor. Hours of operation will be limited to 5 a.m. to 12 a.m. Some of the required parking for the site will be under the service area canopy next to the pumps. The materials also include petitions of support (Attachment 4) and a Traffic Impact Study.

Request Justification

In his response to Resolution 116-86, the applicant points out that conditions in his neighborhood along El Pueblo Rd. have changed since Paseo Del Norte was constructed, making the area less attractive for residential uses and more conducive to developments such as his own and several other similar businesses along El Pueblo Rd. Properties to the west of the site in the Village of Los Ranchos now have C-1 zoning. Seniors from the nearby apartment complex would walk to the site for convenience goods.

He states the proposed use is consistent with County Plans that call for the establishment of Village Centers in the County. The area nearby the site would qualify as a Center as it has a church, a school, an apartment complex, and a convenience store would fit in as part of the Center.

He states that the land use will not be harmful to his neighborhood. He states intersection of Second St. and El Pueblo Rd. have clearly defined cross walks and crossing signs.

Surrounding Land Uses and Zoning

Generally speaking, the subject property is located in a relatively rural, residential setting in the North Valley where a majority of the properties are zoned A-1 or R-1, with residential and some agricultural uses. To the immediate east of the site is a single-family residence, zoned A-1. To the south are several farms and pastures and low-density single family uses.

Behind the subject property to the south are established residential subdivisions. Further south along Second St., nearly all properties have residential zoning and uses. The El Paseo Apartments have developed as affordable housing for seniors to the northwest along El Pueblo Road between Second and Fourth Streets, although this property has C-1 zoning. Additional apartments for residents of all ages are being added on this site to be known as "Paseo del Sol" apartments.

Several properties on the north side of El Pueblo Rd. nearby Paseo del Norte have both residential and non-residential uses and have received Special Use Permits for commercial activities. A property to the north of the subject site has a Special Use Permit for a single-family dwelling, mini-warehouses and an automobile repair business (CSU-72-22; CSU-83-46). To the northeast of the subject site, a three-quarter acre property has a Special Use Permit for RV and Boat Storage (CZ 95-25; CZ-10021), with its caretaker on the adjacent residential property. To the east of this site, a property had a Special Use Permit for Restaurant Development Establishment (CZ-93-26). In late 2003, the property owner attempted to amend this Special Use Permit to add a contractor's yard (CSU-30012). This request was denied by both the County Planning Commission and the Board of County Commissioners due to the potential negative impacts on the adjacent residential neighborhood. The original Special Use Permit then expired.

Further east on the north side of El Pueblo Rd., a property received a Special Use Permit for a single family dwelling and a cabinet manufacturing shop (CZ-92-6), which was recently converted into a computer software establishment. The property owner received an administrative amendment to this Special Use Permit to allow the change of use. Beyond this near Edith Blvd. are several residential properties.

To the west of Second St. properties have been annexed into the Village of Los Ranchos, including a church and its school, a landscape contractor's yard, and several residences, with C-1 zoning within the Village.

Further east along the south side of El Pueblo Rd. nearby Edith Blvd. are several businesses with Special Use Permits, including nurseries. A 3.6 acre property to the east of the subject property extending to Edith Blvd. received a Special Use Permit for vehicle and equipment and contractor's yard (CSU 72-35; CSU 76-19).

APPLICABLE PLANS AND POLICIES:

Albuquerque/Bernalillo County Comprehensive Plan

The site is located in the Rural Area as delineated in the Albuquerque/Bernalillo Comprehensive Plan. The principal goal for this area is to "maintain the separate identity of rural areas as alternatives to urbanization by guiding development compatible with their open character, natural resources, and traditional settlement patterns."

Policy 3.a of the Plan (Land Use) states that Rural Areas as shown by the Plan Map shall generally retain their rural character with development consisting primarily of ranches, farms, and single-family homes on large lots; higher density development may occur at appropriate

locations – within rural villages or planned communities. Overall gross densities shall not exceed one dwelling unit per acre.

Policy 3.g states that the following policies shall guide commercial development in rural areas:

- Small-scale, local industries which employ few people and may sell products on the same premises are the most desirable industrial use.
- Neighborhood and/or community-scale rather than regional-scale commercial centers are appropriate for rural areas. Strip commercial development should be discouraged and, instead, commercial development should be clustered at major intersections and within designated mountain and valley villages.

Centers and Corridors Section

County Planning Commission and Extraterritorial Land Use Commission recommended adoption of the additional Plan section on September 10, 2001. The Board of County Commissioners and Extraterritorial Land Use Authority adopted the Centers & Corridors section on January 22, 2002.

The 2002 Amended Comprehensive Plan (Centers and Corridors Map) designates the Second St. and Fourth St. area along Alameda Blvd. as a “Rural Village Center” and the area to the west of the Rio Grande as a “Regional Center.”

Activity Centers

The Goal is to expand and strengthen concentrations of moderate and high-density mixed use land use and social/economic activities which reduce urban sprawl, auto travel needs, and service cost, and which enhance the identity of Albuquerque and its communities. The Plan identifies four types of Activity Centers, which are shown on the Centers and corridors Map. These are: 1) major activity centers; 2) community activity centers; 2) specialty activity centers; neighborhood activity centers; and 4) rural village activity centers. Of these, neighborhood activity and rural village activity centers might apply to areas in the North Valley.

Rural Village Activity Center. These Activity Centers exist at several locations in the unincorporated areas of Bernalillo County. They are designated to serve daily convenience goods and service needs of residents living in the surrounding Rural and Semi-Urban Areas. Similar to Neighborhood Activity Centers in the Urban Area, Rural Village Centers are usually only a few acres in size, located on an arterial street or highway, and should ultimately contain a mix of small scale retail and service uses such as grocery stores, restaurants, gasoline service stations, hardware stores and offices, as well as some housing within walking distance of the other uses.

According to Table 10 in the Comprehensive Plan (Activity Centers), a Rural Village Center provides a location for the daily goods and service needs of surrounding rural communities. It should be accessible by vehicle, located on an arterial street, afford opportunity to walk safely from one use to another, proximate use on the same side of roadway, and include pedestrian and non-motorized travel amenities. It should be in scale with surrounding rural character and market.

Policy 7.a (Activity Centers) states "Existing and proposed Activity Centers are designed by a by a Comprehensive Plan map where appropriate to help shape the built environment in a sustainable development pattern, create mixed use concentrations of interrelated activities that promote transit and pedestrian access both to and within the Activity Center, and maximize cost effectiveness of City services. Each activity center will undergo further analysis that will identify design elements, appropriate uses, transportation service, and other details of implementation."

Policy 7.e states new Activity Centers are designated and added to the Comprehensive Plan through local government review and approval based on specific criteria.

Policy 7.h states "Changing zoning to commercial, industrial or office uses for areas outside the designated Activity Centers is discouraged."

North Valley Area Plan

This property is located within the Rural area of the North Valley Area Plan. The Plan states, following the Comprehensive Plan," that overall densities should not exceed one dwelling unit per acre in the Rural Area. "

Policy 2 (Land Use) states 'The City and County shall stabilize residential zoning and land use in the North Valley Area.' This may be accomplished through the following:

- a. Limit the location, duration, and type of new uses allowed by Special Use Permit.
- b. Cancel discontinued Special Use Permits granted where existing conditions of approval are not met and permits that are otherwise in violation of the Zoning Ordinance.
- c. Retain existing County A-1 zoning as the only Rural Agricultural zone intended to provide agricultural activities and spacious development.
- d. Require landscape buffering and other measures necessary to limit potential impacts of non-residential uses on residential areas.
- e. Retain the low density character of the North Valley.

Policy 3.a (Land Use) states that "the City and County shall retain existing residential zoning on Alameda Blvd., Second Street, and on future roadway corridors."

Policy 6.1 (Transportation) states that the City and County shall encourage the smooth flow of traffic on arterials as follows:

- a. Retain existing residential zoning on Alameda Boulevard, Second Street and Montano Road from adjacent properties except where alternative access is not available or feasible.
- b. Limit access to Second Street, Alameda Boulevard, and Montano Road from adjacent properties except where alternative access is not available or feasible.

Policy 7.1 (Housing) states the City and County shall stabilize land use to protect affordable housing and land presently zoned for housing as follows:

- a. Maintain and expand areas zoned for residential uses including A-1, R-1, M-H

- b. Limit encroachment of non-residential uses into residential areas
- c. Encourage residential zoning of parcels with residential uses.

The property is located in the "Second Street to Fourth Street Sub-Area" of the Plan, which extends from Fourth Street in the west to the railroad in the east, and north from Montano Rd. to Paseo del Norte. The plan calls out the portion of Second St. and Paseo del Norte as "a transitional area between the more rural to the north and the more urban environment in the south. The provision of urban services into this portion of the plan area has supported requests for higher density residential and commercial zoning."

The Plan states that under the Comprehensive Plan Scenario residential development would be sited to retain the use of the Chamisal Lateral for irrigation of pastures and gardens. Provision of trails along the laterals would be strengthened. Under the preferred scenario, areas to the north of Montano would retain the present zoning.

Bernalillo County Zoning Ordinance

Resolution 116-86 lists policies for evaluating a Zone Map changes and Special Use Permit applications.

- A. A proposed land use change must be found to be consistent with the health, safety, and general welfare of the residents of the County.
- B. The cost of land or other economic considerations pertaining to the applicant shall not be the determining factor for a land use change.
- C. A proposed land use change shall not be in significant conflict with adopted elements of the Comprehensive Plan or other Master Plans and amendments thereto including privately developed area plans which have been adopted by the County.
- D. Stability of the land use and zoning is desirable; therefore, the applicant must provide a sound justification for land use change. The burden is on the applicant to show why the change should be made.
- E. The applicant must demonstrate that the existing zoning is inappropriate because:
 - 1. There was an error in the original zone map.
 - 2. Changed neighborhood or community conditions justify a change in land use or
 - 3. A different use category is more advantageous to the community as articulated in the Comprehensive Plan or other County Master Plan, even though (1) and (2) above do not apply.
- F. A land use change shall not be approved where some of the permissive uses in the land use change would be harmful to adjacent property, the neighborhood or the community.
- G. A proposed land use change which, to be utilized through land development, requires major and unprogrammed capital expenditures by the County may be:
 - 1. denied due to lack of capital funds; or

2. granted with the implicit understanding that the County is not bound to provide the capital improvements on any special schedule.
- H. Location on a collector or major street is not itself sufficient justification of apartment, office, or commercial zoning.
- I. A zone change request which would give a zone different from the surrounding zoning to one small area, especially when only one premises is involved, is generally called a "spot zone." Such a change of zone may be approved only when:
 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted land use plan; or
 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone.
- J. A zone change request which would give a zone different from the surrounding zoning to a strip of land along a street is generally called a "strip zoning." Such a change of zone may be approved only when:
 1. The change will clearly facilitate revitalization of the Comprehensive Plan and any applicable adopted sector development plan or area development plan; or
 2. The area of the proposed zone change is different from surrounding land because it could function as a transition between adjacent zones; because the site is not suitable for the uses allowed in any adjacent zone due to topography, traffic, or special adverse land uses nearby; or because the nature of structures already on the premises makes the site unsuitable for the uses allowed in any adjacent zone due to traffic or special adverse uses nearby.

Section 18. Special Use Permit Regulations

- A. By Special Use Permit after receipt of a recommendation from the Bernalillo County Planning Commission, the Board of County Commissioners may authorize the location of uses in any one in which they are not permitted by other sections of this ordinance; the Board of County Commissioners may likewise authorize the increase in height of buildings beyond the limits set fourth by sections of the zoning ordinance. With such permits, the Board of County Commissioners may impose such conditions and limitations as it deems necessary:
 1. To ensure that the degree of compatibility of property uses which this section is intended to promote and preserve shall be maintained with respect to the special use on the particular site and consideration of existing and potential uses of property within the zone and the general area in which the use is proposed to be located.
 2. To ensure that the proper performance standards and conditions are, whenever necessary, imposed upon uses which are, or which reasonably may be expected to

become, obnoxious, dangerous, offensive or injurious to the health, safety, or welfare of the public, or a portion thereof, by reason of the emission of noise, smoke, dust, fumes, vibration, odor, or other harmful or annoying substances;

3. To preserve the utility, integrity and character of the zone in which the use will be located, without adversely affecting adjacent zones; and
4. To ensure that the use will not be or become detrimental to the public interest, health, safety, convenience, or the general welfare.

Section 19.A (Landscaping and buffer landscaping regulations) states that landscaping and buffer landscaping will be required in all zones for office, commercial, industrial, and multifamily residential uses. For sites of one to five acres, the following requirements apply:

1. There shall be a landscaped setback along all streets of no less than 10 feet.
2. There shall be a landscaped buffer of six feet between single-family residential uses and office, commercial, industrial, and multifamily residential uses.
3. Fifteen percent of all paved areas shall be landscaped. This landscaped setback may contribute toward this requirement.

Section 21. Parking requirements:

(A) (15) Retail store, office (other than medical or dental), or personal service establishment not otherwise specified herein (shall be required to have) one parking space for each 200 square feet of floor area.

ANALYSIS:

Surrounding Land Use and Zoning

The applicant has intended to develop a convenience store since around the time plans were being developed to construct Paseo del Norte. Part of the argument for this has been that the land use and zoning of the area has been changing since around that time.

Although it is clear that some land use changes have taken place and some of nearby properties have Special Use Permits, this particular, proposed use appears not to be consistent with the surrounding area. The few changes that have recently taken place have been towards low intensity service uses (e.g., RV and boat storage, restaurant planning), rather than high volume retail activities. In addition, there still is a great deal of residential use adjacent to and nearby the site. Such a change would adversely affect the nearby residential properties and could facilitate the introduction of high intensity uses along El Pueblo Rd. The most recent development in the area is in fact residential—the El Paseo/Paseo del Sol apartments, part of which are still under construction.

Plans

The request appears to be inconsistent with County land use plans and scenarios, particularly those of the North Valley Area Plan, that show the neighborhoods away from the commercial corridors as maintaining residential uses. The Plan explicitly states that existing residential zoning on Alameda Blvd. and Second St., should retain its residential zoning and access onto these streets should be limited.

This property is not in the rural village center for this area—2nd to 4th St, and Alameda Blvd. as designated in the North Valley Area Plan and the Comprehensive Plan (Centers and Corridors). The applicant states his property should be part of a new village center to include the church, his development and the El Paseo Apartments. However, it appears that Plan amendments would be needed to change this designation.

Zoning Ordinance

The applicant has not satisfactorily demonstrated how the proposed use would be advantageous to the neighborhood as articulated in County land use plans, as required by Resolution 116-86. The Plans call for protecting residential development in the area of the site. It appears instead that the uses could have an adverse effect on the adjacent residential properties through an increase in noise and traffic on the site and a disruption of traffic along Paseo del Norte and El Pueblo Rd.

However, due to the new presence of Paseo Del Norte, it does appear that changed conditions have affected this property, namely increased traffic, rendering the subject site less attractive for residential development than in the past. But this alone appears not to justify the particular use (convenience store, car wash) the applicant has chosen for the site. It could also be pointed out that new significant residential development has taken place along El Pueblo Rd., and that the applicant's property could be developed with residential use, set back further from the roads.

Agency Comments

County staff and representatives from other agencies have noted several issues with the site development plan and the site's location.

County Zoning staff comments suggest that the proposed development may be too intense for the subject site. The parking shown on the site plan is inadequate for the proposed use. More information on signage should be provided. It also appears that the landscaping may obscure visibility for traffic turning at the intersection of Paseo del Norte and Second St. A fencing plan must be provided.

County Public Works notes that there could be some access issues with the State Highway (Second St.). El Pueblo is a County road and the applicant must contact County Public Works regarding this access and the Traffic Impact Study recently submitted by the applicant.

County Environmental Health is concerned that there could be health and safety issues associated with the use as it is near a residential area, which includes a church and a school. Pedestrian access to the site across the intersection could create safety problems. Other appropriate permits will be needed at the time of site development.

City Transportation Planning is concerned with the disruption of the flow of traffic at the intersection. At a minimum, the applicant should be required to construct medians to prohibit left turns into the site.

The New Mexico Department of Transportation (DOT) comments indicate a concern with access from the State Highway--Second St. The site plan proposes one point of access about half-way between El Pueblo Rd. and the south property line and another near the south property line, while the DOT will only allow one access on Second St. next to the south property line.

Conclusion

The applicant wishes to build a convenience store, service station, and car wash on what is currently his residential property located at the southeast corner of Second St. and El Pueblo Rd. Staff feels the request should be deferred as the information provided is inadequate to make a final determination on the proposed land use and the site plan. Staff also notes that some materials for this application were submitted late, which have not all been circulated among staff and agencies, also necessitating the deferral.

The site plan needs to be redrawn to include the following: 1) parking appropriate to the size of the building (e.g., scale down the building; clearly delineate any additional spaces on the site); 2) buffering between site and residential area, including a wall and landscaping; 3) trash disposal, containers; 4) landscaping at appropriate locations (not obstructing right-of way visibility); 5) relocate/eliminate access on Second St. in accordance with Department of Transportation comments and remove car wash (is obstructing access and circulation); 6) provide information on lighting for the site and the canopy; 7) meet with Public Works staff regarding El Pueblo access; and 8) show more of the surrounding area on the site plan. In addition, the applicant's justification should provide more information on the operation of the business, sale of alcoholic beverages, nuisance abatement, and pedestrian safety. It should demonstrate consistency with County Plans, not propose to change the Plan designations to suit this particular plan.

In addition, the applicant has not demonstrated that this particular use is appropriate for the site per County plans and Resolution 116-86 and that it would not cause major safety problems within and nearby the site and be a nuisance to the adjacent residential neighborhood. The Alameda North Valley Association has submitted a letter regarding its concerns with the proposed use and its impacts on the area (Attachment 5).

ADDITIONAL STAFF COMMENTS, OCTOBER 5, 2005

This request was first heard at the October 6, 2004 CPC hearing when it was continued for six months to the April 6, 2005 hearing. In April 2005, the applicant requested another six month to continue to address issues of access, which the CPC granted.

Details of Current request.

Since the previous hearing, the applicant has submitted a revised site plan and justification and other supporting materials (Attachment 6). The site plan is for the same uses as previously, namely the 3500 sq. ft. convenience store, an 1164 sq. ft. carwash, and a 3624 sq. ft. canopy area. Parking includes 9 spaces in front of the convenience store and 10 under the

canopy (the County Zoning Administrator determined this is acceptable (See revised application—Attachment 7). The only major change is that there is only one driveway for access on Second St., rather than two points of access, as previously proposed. The applicant has obtained a provisional access from the N.M. Department of Transportation (See Attachment 7). The landscaping plan (revised in 2004) had made a provision for visibility at the corner of El Pueblo Rd. and 2nd. St., but is otherwise the same plan as submitted for the October 2004 hearing. The new grading and drainage plan shows the flow of drainage out to the corner of Second St. and El Pueblo Rd. with no on-site ponding. Additional petitions of support have also been submitted (Attachment 8).

The applicant's revised justification elaborates on his previous statements. He believes there are additional changed conditions in the area, including the completion of the second phase of apartments to the northwest of the site, the new (planned) commuter rail station at El Pueblo Rd. and Edith Blvd., and the development of C-1 zoned properties to the west in the Village of Los Ranchos. This, together with the development of Paseo del Norte and associated traffic (discussed in the previous submittal) all suggests to the applicant that a convenience store is needed in the area and that El Pueblo Rd., extending into the Village of Los Ranchos, has become a commercial corridor. The applicant reiterates (as in the previous submittal) that the property cannot be developed under A-1 zoning or sold due to its location. In terms of County Plans, he feels the area of the site should be designated as a new village center due to the nearby commercial uses. He also states there still is substantial support for this particular use.

Additional Staff Comments.

Most agency representatives and staff have no additional comments. However, County Environmental Health staff has determined that the applicant's property has never been connected to City sewer, when it has been available for some time, and previous comments and concerns were not addressed. City Public Works (Transportation Development) comments note the site plan needs to be changed to accommodate all the Department of Transportation conditions. The revised position of the Department of Transportation is included in Attachment 7. County Public Works has not commented on this re-submittal.

The Village of Los Ranchos (Village Administrator) has submitted a letter in response to the current request (Attachment 9). The comments point out that: 1) with the new location of the commuter rail station on 'excess right-of-way' adjacent to Paseo del Norte and El Pueblo, the rail site will be congested; 2) the Village has no intention of widening El Pueblo and intends to keep the area rural; 3) commercial development along El Pueblo near the site predate the North Valley Area Plan and does not constitute a changed condition; 4) the request would qualify as a 'spot zone' as it is in a contiguous area of mixed residential and commercial uses that have existed for 25 years; 5) although apartment residents may be served by the convenience store, the gas service station and convenience store at this particular location will create a dangerous situation for drivers and pedestrians, and create additional need for Village emergency response teams; and 6) the Village does not have plans for El Pueblo to become a 'commercial corridor' within its boundaries. The letter concludes that "It would be best to consider an alternate location or less intense use for this property that fits with the Adopted North Valley Area Plan."

There also has been substantive opposition to this request from the adjacent residential neighborhood (Attachment 5).

Additional Analysis and Conclusion

Staff appreciates the applicant's attempts to modify and clarify the site plans for the proposed uses and to address the concerns of staff. However, there still are problems with this request, particularly in terms of the appropriateness of the proposed uses. It appears that the site's building density is too high (convenience store, canopy, and car wash) for the site and the location, creating issues with on-site circulation, possibly spilling over into the street. It also appears that this use would negatively impact an already precarious and dangerous traffic and safety situation at this intersection of Second St., El Pueblo Rd., and Paseo del Norte. No additional information has been provided about the operation of the business and any efforts on the part of the applicant to minimize its impacts on the neighborhood or to address the concerns regarding traffic as discussed at the previous hearing and noted in the Traffic Impact Study (See Attachment 3).

The applicant has yet to provide an acceptable justification for the appropriateness of this particular development at this specific location within the context of adopted County land use plans. He still does not address the fact that County plans for this area call for new commercial and industrial development in the North Valley to be located in areas other than nearby this site and that this particular use includes activities that could be harmful to the area in terms of noise, safety and health. The applicant sites other long-standing non-residential uses nearby as a justification, but staff notes that these uses are not retail in nature (as with the applicant's), and that the proposed high intensity retail development is incompatible with the adjacent residential subdivisions to its rear and south. While some changes have occurred in this neighborhood, these indicate, contrary to the applicant's views, that the proposed uses are inappropriate for this particular site. Resolution 116-86 requires the applicant to demonstrate that changed neighborhood conditions justify the particular, proposed land use change, not just to state that changes have taken place.

Therefore, staff is recommending denial of this request under the view that this land use conflicts with County land use plans for the area and would negatively impact the adjacent residential neighborhood and the general vicinity of the site.

FINDINGS:

1. This is a request for a Special Use Permit for a Specific Use for a Service Station, including Retail Sales (convenience store) and Car Wash on Tract 140H1, MRGCD Map #24, located at 8424 Second Street NW, on the southeast corner of Second Street and El Pueblo Road, zoned A-1, containing approximately .82 acres.
2. The property is located in the Rural Area of the Albuquerque/Bernalillo County Comprehensive Plan and the North Valley Area Plan.
3. The request is not consistent with Resolution 116-86 in that it is proposing a commercial use on a residential property when the Albuquerque/Bernalillo County Comprehensive Plan designations (Centers and Corridors) state that new commercial development should be located in the Village Center between Fourth Street and Second Street, and Policy 3.a (Land Use) of the North Valley Area Plan, states "that the City and County shall retain existing residential zoning on Alameda Blvd., Second Street, and on future roadway corridors".
4. The request is not consistent with Resolution 116-86 in that the applicant has failed to demonstrate that the existing zoning is inappropriate for the site.
5. This request is not consistent with the health, safety, and general welfare of the residents of the County.

RECOMMENDATION:

DENIAL of the Request, based on the above Findings.

Catherine VerEecke
Program Planner

BERNALILLO COUNTY DEPARTMENT COMMENTS

Building Department:

Building permits will be required for all proposed structures as a condition of approval for this request. Plans will be required to be sealed by a New Mexico licensed Architect. Tmp

Environmental Health:

- City of Albuquerque water and sewer appears to be available to this property, where applicable availability should be coordinated with City Public Works. A sewer availability statement will be required. Please contact the City LDC at 924-3989.
- UPON DEVELOPMENT APPLICANT MUST PROVIDE PROOF OF SEWER CONNECTION.
- Coordination and licensing of the fuel storage tanks is through the Petroleum Storage Tank Bureau - 1190 St. Francis Dr. Santa Fe, NM 87502 1-505-984-1741 or 4131 Montgomery Blvd. NE Albuquerque, NM 87109 841-9460.
- Property is connected to city water as a residence - acct. #23011193. Upon development change over to commercial account is required.
- Property has a current septic permit - HSTL-82399 Once city sewer is connected, the septic system shall be abandoned properly and coordinated with the Bernalillo County Office of EH.
- The prospective business doesn't create a situation of a healthful living environment in the community as claimed by the applicant:
 - A. The prospective business is located in very close proximity to a number of low impact uses including schools and residential dwellings [SFD and Apartments]; the intended use conflicts with providing a healthful living environment in the neighborhood.
 - B. A feature of the business to sell package liquors will create a systematic increase in loitering behavior which could lead to theft, armed robbery, pan-handling, the solicitation to purchase liquor products for minor aged persons, possible erratic and unsafe access and egress into the establishment by vehicle drivers coming to it for the sole purpose of purchasing package liquor products, this increase in activity will be a detriment to the neighborhood and the healthful living environment in the neighborhood as well.
- Additionally, littering of wrappers and/or trash in general from customers at the site can be assured of. The trash and litter may become windborn and accumulate and disburse into the neighborhood.
- Adherence of the "Night Sky Act" adopted by the State of New Mexico and applicable in Bernalillo County shall be strictly enforced and adhered to with regards to signage on the property.
- Coordination and permitting with COA Air Quality Division as applicable.
- Traffic Impact Analysis study is required which should include vehicle and pedestrian traffic.
- The property is situated close to private residential dwellings. The applicant should be aware of the Noise Ordinance 30-116, which states, "it shall be unlawful for any person to willfully make or continue, or cause to be made or continued, any loud, unnecessary or unusual noise which disturbs the peace or quiet of any neighborhood or which causes discomfort or annoyance to any person residing in the area..."
- Coordination with State of NM Dept. of Agriculture, Standards and Consumer Services - Petroleum Bureau Chief; 1-505-827-3765.

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- All fuel dispensing equipment installed must be calibrated and registered with this State of NM office. The equipment must be inspected and certified only by those agencies recommended by the State of NM.
- State of NM Fire Marshall office has setbacks criteria information. Coordination is at 1-505-827-3765.

Additional comments for October 5, 2005

1. Property is connected to public utility [city] water as a residence - acct. #23011193.

2. Property has a current Bernco EH Office wastewater permit - HSTL-82399. And has never had a wastewater operators permit.

Sewer has been available for a lengthy amount of time. The property according to the Bernalillo County wastewater ordinance was to have connected to sewer within thirty days of availability. The owner shall promptly connect to sewer and coordinate this with the Joint City/County Water Utility Authority at 924-3951 or 924-3952. The septic tank system shall be abandoned properly and coordinated with the Bernalillo County Office of EH at 314-0330. Proof of connection and abandonment shall be proven to Bernalillo County EH Office.

MUST PROVIDE PROOF OF SEWER CONNECTION

The applicant has not provided Bernalillo County EH Office with any updates or information on this land use action.

Fire:

UPON DEVELOPMENT MUST MEET ALL F.D. REQUIREMENTS.

Zoning Enforcement Manager:

Must comply with below listed comments.

Site plan incomplete, shall submit a detailed landscape plan and shall comply with landscape requirements for C-1 uses. Off-Street parking requirements not met. parking shall have 18 spaces based on retail use

(200 square feet divided into 3500 square feet= 17.5). Shall comply with C-1 Zone Sign Ordinances. Shall submit a exterior lighting plan for review to meet night sky ordinance. No adverse comments to revised landscape plan.

Additional Comments for October 5, 2005.

Based on the above comments there is no adverse comments at this time.

Public Works:

DRAN: 1. An approved grading and drainage plan is required prior to development of this property.

DRE: 2nd Street is a State Road, contact NMDOT regarding access issues to proposed development. Traffic Impact Analysis may be required with this proposal. The Long Range

Roadway System Map defines 2nd Street as a Principal Arterial Street, additional ROW may be required. Contact MRCOG prior to development of this property. El Pueblo is a BC maintained road, contact the Development Review Engineer regarding access issues and road improvements prior to development of the property.

Parks & Recreation:

- Reviewed. No impact to BCPR facilities. No adverse comment.

Sheriff's:

No comments received.

COMMENTS FROM OTHER AGENCIES

MRGCOG:

Access to 2nd Street must be coordinated with the NMDOT.

For October 5, 2005

Second Street is owned and maintained by the NMDOT District 3 office. Their concurrence is required for any access issues related to the site. In addition, the Long Range Bikeway System map identifies 2nd Street as having an on street bike lane. Coordination with the County should occur to include these elements in the project as appropriate.

AMAFCA:

No comments.

October 5, 2005

No comments.

City Open Space:

No adverse comments.

City Planning Department:

No comments received.

City Public Works (Utilities)

No adverse comments.

October 5, 2005

No adverse comments.

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City Public Works (Transportation Planning):

Transportation Division:

Findings

1. Second Street is a principal arterial as designated on the Long Range Roadway System.
2. El Pueblo Road is a collector street as designated on the Long Range Roadway System.
3. The safe, efficient operations of the Second and El Pueblo intersection is vital to serving the transportation needs of the area.
4. A raised median divider along Second Street to prevent left turn access to and from the site is needed.

Conditions

1. Construction of a raised median divider along Second Street to prevent left turn access to and from the site.

October 5, 2005

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Findings

1. Second Street is a principal arterial as designated on the Long Range Roadway System map.
2. The proposed access to Second Street does not reflect the required restrictions described in the letter from the NM Department of Transportation, dated April 1, 2005.

Conditions

1. The site plan should reflect the Second Street access restrictions described in the letter from the NM Department of Transportation, dated April 1, 2005.

City Public Works (Transportation Development):

No adverse comments.

City Environmental Health:

No comments received.

City Transit:

No objection. Transit provides all-day local service on 4th St. one third of a mile to the west, slightly farther than normal walking distance from the site.

For October 5, 2005

The #10 N. 4th St. route operates slightly more than 1/4 mile to the west.

No objection.

NMDOT

- A Traffic Impact Analysis (T.I.A.) will be required to determine the impact to the State Road system as well as mitigation measures.
- A State driveway permit will be required for access to the State Road.
- The permitting process shall be followed to obtain the permit.
- Only one driveway may be approved due to driveway spacing requirement, and it should be moved to the south of the property

Village of Los Ranchos

No comments received.

NEIGHBORHOOD ASSOCIATIONS:

Alameda North Valley Association